



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,847	07/23/2001	Yoshinobu Machida	0445-0307P	1179

2292 7590 02/12/2003

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

GRAY, LINDA LAMEY

ART UNIT	PAPER NUMBER
----------	--------------

1734

DATE MAILED: 02/12/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/899,847

Applicant(s)

HIGUCHI, MITSUO

Examiner

Linda L Gray

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7-23-01, 2-21-02, 11-8-01, and 12-19-02.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 5) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 6) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5, 7, 4 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of **claims 1-4** in paper 9 is acknowledged. Because Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). **Claim 5** is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Specification

2. The disclosure is objected to because of the following informalities: page 8, line 27, "B" should be "10B". Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. **Claims 1-4 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for cutting the continuous member with one other continuous member 7 to form the absorbent article 7' after a final cutting (Fig 1 and related discussion), does not reasonably provide enablement for cutting the continuous member and bonding the cut member to absorbent article 7' (claim 1) and also joining the continuous member with "other continuous members" (claim 2).**

The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to practice the invention commensurate in scope with these claims.

Art Unit 1734

- 5.** The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 6. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.**

Claims 1 and 2 are indefinite because it is unclear what constitutes the "other continuous members" in claim 2, line 3.

Claim Rejections - 35 USC § 102

- 7.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 8. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Brandon et al. (US 5,766,389).**

Claim 1, Brandon et al. teach a method for manufacturing absorbent article 10 (Fig 1 and related discussion) including the steps of continuously feeding out long, extensible continuous member 66 from a predetermined position and conveying; cutting member 66 into lengths each equivalent to a length of one sheet of article 10 at a predetermined position in a conveying path; and fixedly arranging cut member 66 at a predetermined position of article 10 (Fig 5 and related discussion). A predetermined pattern (Figs 3, 4 and related discussion) is preliminarily printed on member 66 at a printing pitch shorter than the cutting length of member 66. The speed for feeding out

Art Unit 1734

member 66 is controlled such that the pattern is located at a predetermined part of cut member 66 to obtain article 10 in which the pattern is arranged at t predetermined position (c 18, L 32-67).

Claim 2, Brandon et al. teach stretching member 66 prior to cutting and joining member 66 with other continuous members 54 and 92. After joining, cutting occurs so as to arrange the pattern at the position on article 10. Note that claim 2 is rejected in light of the rejection of claim 2 under 35 U.S.C. 112, first and second paragraphs. **Claim 3**, Brandon et al. teach that the speed of feeding member 66 is controlled such that member 66 is fed out by one printing pitch with respect to one cut of member 66 (Figs 3, 4, 5, and related discussion). **Claim 4**, Brandon et al. teach that a length of the path of member 66 from a predetermined position where member 66 is fed out to a predetermined position where member 66 is cut is set to a constant length (Figs 3, 4, 5, and related discussion).

Conclusion

9. Any inquiry concerning this or earlier communications should be directed Linda L. Gray at 703-308-1093, 6:30am-4:00pm, M-F. The examiner's supervisor, Richard Crispino, can be reached on 703-308-3853. Any general inquiries should be directed to the receptionist at 703-308-0661. The fax numbers are 703-305-7718 (before final) and 703-872-9311 (after final).

llg *llg*
February 10, 2003

Linda L. Gray
LINDA GRAY
PRIMARY EXAMINER